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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058330
Party	Defendant Sekscobra, Inc.
Correspondence Address	SEKSCOBRA INC 5955 CHATEAU DRIVE SAN DIEGO, CA 92117 UNITED STATES
Submission	Answer
Filer's Name	William A. Adams
Filer's e-mail	wadams@nmalawfirm.com, wadams@nortonadams.com
Signature	/William A. Adams/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CRAFT WORLDWIDE HOLDINGS, LLC,)	
)	Cancellation No. 92058330
Petitioner,)	
)	Registration No. 4,138,717
v.)	
)	
SEKSCOBRA, INC.,)	
)	
Respondent.)	
)	

REGISTRANT'S ANSWER TO PETITION FOR CANCELLATION

Registrant, Sekscobra, Inc., the Respondent in this matter, by and through its undersigned counsel, hereby responds to the Petition for Cancellation as follows:

With respect to the unnumbered paragraph, Registrant admits Petitioner Craft Worldwide Holdings, LLC (hereinafter "Petitioner") purports to have a business address in New York. Registrant is without knowledge or information sufficient to form a belief as to the remaining matters in said paragraph, and therefore denies the same.

1. Registrant is without knowledge or information sufficient to form a belief as to the matters in paragraph 1 of the Petition for Cancellation and therefore denies the same.

2. Registrant admits that trademark Registration Nos. 2,947,414, 2,906,043, and 2,954,368 have been issued by the United State Patent and Trademark Office. Registrant is without knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 2, and on therefore denies said allegations.

3. Registrant admits that "Craft & Commerce" is a currently registered service mark

consisting of a combination of standard characters without claim to any particular font style, size, or color, consisting of the generic word “Craft” followed by a space, followed by an ampersand symbol “&”, followed by another space, followed by the word “Commerce.” Registrant denies any purported utilizing of or coupling with Petitioner's claimed trademark, and denies that it in any way infringes on any registrations by Petitioner.

4. Registrant objects that “encompass”, “... effectively the legal equivalent of” and “associated with” as used in this paragraph are vague, overly broad, and ambiguous characterizations which lack factual content and do not entitle Petitioner to any relief. Without waiving the objection, Registrant is without sufficient knowledge or information as to services purportedly offered by Petitioner, and therefore denies the allegation that they are “encompassed by” or the “legal equivalent” of services offered by Registrant. Registrant specifically denies that any purported services or marks of Petitioner are associated, directly or indirectly, with any services or marks of Registrant.

5. Registrant denies the allegations of paragraph 5 in their entirety; and specifically, denies (a) that the marks and services of Petitioner and Registrant are confusingly similar under standards established by the trademark laws of the United States; (b) that Registrant’s use of its “Craft & Commerce” mark will result in any alleged blurring or tarnishing of Petitioner’s identity; and (c) that Registrant’s use of its mark will in any way deprive Petitioner of any distinctiveness of any of its marks.

COUNT ONE

6. Registrant reasserts and realleges its answers set forth above in paragraphs 1-5, inclusive.

7. Registrant objects that that the phrases “nearly identical nature of the services” and “same class of consumers” in this paragraph are vague, overly broad, and ambiguous characterizations which do not entitle Petitioner to any relief. Without waiving the objection, Registrant denies the

allegations of paragraph 7 in their entirety; and specifically, denies (a) that Registrant's use of its mark will cause confusion, (2) that Registrant has combined Petitioner's mark into its mark; and (3) use of Registrant's mark is likely to cause a belief by consumers that Registrant's services are those of Petitioner's, or are otherwise endorsed, sponsored, or approved by Petitioner, causing damage to Petitioner.

8. Registrant is without knowledge or information sufficient to form a belief as to the allegations in paragraph 8, and therefore denies the same.

9. Registrant admits the allegation in paragraph 9.

10. Registrant objects that the allegation in paragraph 10 constitutes an improper legal conclusion. Without waiving the objection, Registrant denies said paragraph in its entirety.

COUNT TWO

11. Registrant reasserts and realleges its answers set forth above in paragraphs 1-5 and 6-10, inclusive.

12. Registrant is without information or knowledge sufficient to form a belief as to what, if any, initial investigation Petitioner has purportedly undertaken, and therefore denies the allegations in paragraph 12.

13. Registrant denies the allegations of paragraph 13 in their entirety; and specifically denies any intent to deceive, and denies that a "wider breadth of services" were applied for than actually offered. Registrant asserts that Petitioner's inclusion of such an allegation is wholly contrived, and merely a bad faith attempt to bolster an otherwise meritless Petition.

AFFIRMATIVE DEFENSES

As and for Affirmative Defenses to the Petition, Registrant alleges the following on information and belief:

1. Petitioner has not been and will not be damaged by the registration of Registrant's mark,

and Petitioner therefore lacks standing to petition to cancel the registration.

2. Petitioner has assumed the risk of damage to itself. Petitioner has no right to the generic, descriptive term “craft” in and of itself, and any claim of damage resulting from Registrant’s mark is due to Petitioner’s attempt to claim ownership of a generic, descriptive term already widely adopted by the general public in the food and beverage industry.

3. Petitioner could have, but failed to assert any opposition when Registrant applied for the registration of its mark, and therefore lacks standing to petition to cancel the registration.

4. Petitioner is barred from seeking cancellation of the Registrant's trademark under the doctrines of laches, estoppel, waiver, and unclean hands.

5. Petitioner has acquiesced in Registrant's adoption, registration, and use of the mark that is the subject of the petition for cancellation.

6. When viewed as a whole, the combination of words, spaces and symbols that comprise Registrant’s “Craft & Commerce” mark are such that it is not confusingly similar to, and not likely to be confused with, any marks claimed to be owned by Petitioner.

7. Petitioner obtained Registration Nos. 2,947,414, 2,906,043, and 2,954,368 fraudulently and deceptively in that Petitioner has never used the marks as claimed in the registrations.

8. Petitioner’s Petition for Cancellation was filed fraudulently and in bad faith based on overreaching claims to ownership of a generic, non-distinctive term - “craft”- which has multiple meanings, and which was, and is, commonly used in the food and beverage industry and has no meaningful secondary association with Petitioner or any other particular restaurant or establishment.

9. Petitioner’s Registration for its marks and/or the incontestability status was obtained fraudulently.

10. Notwithstanding its attempts to intimidate and threats of legal action, Petitioner has failed to enforce its alleged “craft” mark against others who have used or are using the word in

connection with bar and restaurant services; cafe and restaurant services; restaurants; and/or restaurant services. Such failure and acquiescence constitutes abandonment of the mark.

11. Petitioner has failed to enforce its alleged “craft” mark against others who have used or are using the mark in connection with bar and restaurant services; cafe and restaurant services; restaurants; and/or restaurant services. To the extent the word “craft” in and of itself was not already generic, such failure has resulted in the mark becoming generically associated with a variety of specially crafted foods and beverages served in restaurants, including craft beers.

12. Petitioner’s use of the “craft” mark constitutes a fraud and misrepresentation to consumers in that it purports to denote that Petitioner provides services that Petitioner does not in fact provide.

13. Registrant used its mark in connection with bar and café services prior to any such use by Petitioner, and used its mark in California prior to any use whatsoever by Petitioner, and therefore has priority of use.

14. The relief sought by Petitioner, if granted, would give Petitioner a monopoly on use of a common, well-known, generic word in the food and beverage industry, and effectively displace or shut down others from legitimately use of the term, thereby harm competition and consumers, and leading to other unconscionable and absurd results neither contemplated by or consistent with the trademark laws. Additionally, Petitioner has and is engaging in antitrust law violations, in which Petitioner’s mark itself has been “the basic and fundamental vehicle required and used to accomplish the violation.”

15. The word “craft” which Petitioner claims to own is essentially a functional term, and therefore not subject trademark protection in and of itself, and the imaginary words “craftbar” and “craftsteak” are not confusingly similar to Registrant’s mark.

16. Petitioner’s mark is exceedingly weak, lacks distinctiveness, and is without secondary meaning because the word “craft” is a common descriptive term in the food and beverage industry to

denote small specialized crafters of food and beverages. Thus to the extent Petitioner's mark is valid, if at all, it cannot serve as a basis to oppose or cancel registrations using this generic or descriptive term in combination with other words. Registrant's use of this descriptive term in a unique combination with the word "& Commerce" prevents any confusion with Petitioner's mark.

WHEREFORE, Registrant prays that the Petition for Cancellation be dismissed with prejudice in its entirety.

Date: January 16, 2014

Respectfully Submitted,

NORTON, MOORE & ADAMS, LLP

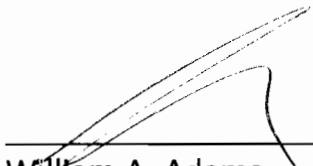
By: _____

William A. Adams,
California Bar No. 135035
525 Broadway, Suite 1500
San Diego, California 92101
(619) 233-8200
wmadams@nmalawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Answer to Petition for Cancellation** has been served on Brooks R. Bruneau, Esq., attorney for Petitioner Craft Worldwide Holdings, LLC, by mailing said copy on **January 16, 2014** via First Class Mail, postage prepaid to:

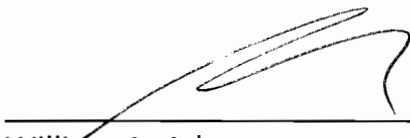
Brooks R. Bruneau
Porzio Bromberg & Newman
29 Thanet Road, Suite 201
Princeton, NJ 08540



William A. Adams

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this Answer to Petition for Cancellation was electronically filed with the Trademark and Appeal Board on **January 16, 2015**.



William A. Adams